

**RESPECT CHOICE - SPECIAL GROUP**

**LICENSE PLATES**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Rosalind J. McGee**

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**LONG TITLE**

**General Description:**

This bill modifies the Motor Vehicles Code by amending special group license plate provisions.

**Highlighted Provisions:**

This bill:

- ▶ authorizes a Respect Choice special group license plate to provide financial support to Respect Choice, Inc. for the benefit of nongovernmental, not-for-profit programs providing basic family planning and contraceptive services, including nondirective pregnancy counseling and comprehensive, medically accurate sexuality education services; and

- ▶ requires applicants for the new plate to make a \$25 annual donation to Respect Choice, Inc.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on October 1, 2004.

**Utah Code Sections Affected:**

AMENDS:

**41-1a-418**, as last amended by Chapters 74, 102 and 141, Laws of Utah 2003

**41-1a-422**, as last amended by Chapters 74 and 141, Laws of Utah 2003



*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **41-1a-418** is amended to read:

**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with Sections 41-1a-418 through 41-1a-422 to a person who is specified under this section within the categories listed as follows:

- (a) disability special group license plates issued in accordance with Section 41-1a-420;
- (b) honor special group license plates, as in a war hero, which plates are issued for a:
  - (i) survivor of the Japanese attack on Pearl Harbor;
  - (ii) former prisoner of war; or
  - (iii) recipient of a Purple Heart;
- (c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for a:
  - (i) special interest vehicle;
  - (ii) vintage vehicle;
  - (iii) farm truck; or
  - (iv) vehicle powered by clean fuel and for which a current clean special fuel certificate is maintained as provided in Section 59-13-304;
- (d) recognition special group license plates, as in a public official or an emergency service giver, which plates are issued for a:
  - (i) current member of the Legislature;
  - (ii) current member of the United States Congress;
  - (iii) current member of the National Guard;
  - (iv) licensed amateur radio operator;
  - (v) currently employed, volunteer, or retired firefighter;
  - (vi) emergency medical technician;
  - (vii) current member of a search and rescue team; or
  - (viii) current honorary consulate designated by the United States Department of State;
- and
- (e) support special group license plates, as for a contributor to an institution or cause,

which plates are issued for a contributor to:

- (i) an institution's scholastic scholarship fund;
- (ii) the Division of Wildlife Resources;
- (iii) the Office of Veterans' Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;
- (viii) spay and neuter programs through No More Homeless Pets in Utah;
- (ix) the Boys and Girls Clubs of America; ~~or~~
- (x) Utah public education~~[-]; or~~
- (xi) Respect Choice, Inc. for the benefit of nongovernmental, not-for-profit programs providing basic family planning and contraceptive services, including nondirective pregnancy counseling and comprehensive, medically accurate sexuality education services.

(2) Beginning January 1, 2003, the division may not issue a new type of special group license plate unless the division receives:

(a) a start-up fee established under Section 63-38-3.2 for production and administrative costs for providing the new special group license plates; or

(b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).

(3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3) may request the commission to authorize a new type of special group license plate for the sponsoring organization. The sponsoring organization shall:

(i) collect a minimum of 200 applications; and

(ii) pay a start-up fee established under Section 63-38-3.2 for production and administrative costs for providing the new type of special group license plates.

(b) If the provisions of Subsection (3)(a) are met, the commission shall approve the request and the division shall:

(i) design a license plate in accordance with Section 41-1a-419; and

(ii) issue the new type of special group license plates.

Section 2. Section **41-1a-422** is amended to read:

**41-1a-422. Support special group license plates -- Contributor -- Voluntary**

**contribution collection procedures.**

(1) As used in this section:

(a) "Contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(i) a scholastic scholarship fund of a single named institution;

(ii) the Division of Veterans' Affairs in the Utah National Guard for veterans' programs;

(iii) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(iv) the Department of Agriculture and Food for the benefit of soil conservation districts;

(v) the Division of Parks and Recreation for the benefit of snowmobile programs;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(vii) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(viii) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(ix) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs; ~~or~~

(x) the Utah Association of Public School Foundations to support public education~~[-];~~  
or

(xi) Respect Choice, Inc. for the benefit of nongovernmental, not-for-profit programs providing basic family planning and contraceptive services, including nondirective pregnancy counseling and comprehensive, medically accurate sexuality education services.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and

present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the moneys collected by the institutions from contributors are used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63-38-3.2 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) Except as provided under Subsection (3)(d), an applicant for original or renewal support special group license plates under this section must be an annual contributor to the entity or named institution associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) treated as a voluntary contribution for the funding of the activities specified under this section and not as a motor vehicle registration fee; and

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates.

(c) Except as provided under Subsection (3)(d), the donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) veterans' license plates;

152 (ii) snowmobile license plates; or  
153 (iii) soil conservation license plates.  
154 (4) Veterans' license plates shall display one of the symbols representing the Army,  
155 Navy, Air Force, Marines, Coast Guard, or American Legion.  
156 Section 3. **Effective date.**  
157 This bill takes effect on October 1, 2004.

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**Legislative Review Note**  
**as of 2-2-04 11:07 AM**

This legislation authorizes a Respect Choice special group license plate. This legislation might be challenged on the grounds that it violates the First Amendment of the United States Constitution. The United States Supreme Court has not decided a case addressing the issuance of special group license plates. However, at least one federal district court has held that the issuance of a special plate constitutes private speech that is unconstitutional viewpoint discrimination if the license plate is issued pursuant to the uncontrolled discretion of the legislature. Planned Parenthood v. Rose, 236 F. Supp. 2d 564 (D.S.C. 2002); *See also*, Sons of Confederate Veterans, Inc. v. Commissioner of the Virginia Department of Motor Vehicles, 288 F.3d 610 (4<sup>th</sup> Cir. 2002).

This legislation also requires a contribution of at least \$25 annually to Respect Choice, Inc., a private non-profit entity, in order to purchase a Respect Choice special group license plate. Article VI, Section 26 of the Utah Constitution prohibits special legislation. The Utah Supreme Court has defined special legislation as legislation that classifies its objects unreasonably, by selecting from a class of particular persons, places, or things for the purpose of conferring privileges or imposing burdens. It is unclear whether a court would determine that requiring a contribution of at least \$25 annually to Respect Choice, Inc., if a person chooses to purchase a Respect Choice special group license plate, is unconstitutional special legislation. If a court finds that the classification is reasonable and that general legislation is unable to cover the same issues that the special legislation covers, a court would likely uphold the Legislature's action.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0280**

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**Respect Choice-Special Group License Plates***05-Feb-04**2:31 PM*

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**State Impact**

Start-up costs range from \$4,600 to \$32,700 depending on the design, number of colors, and number of decals ordered. These costs will be paid by the sponsoring organization to the Tax Commission to cover costs. There is a Legislative Review note on this bill. If there is a legal challenge, there could be additional costs to the State.

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**Individual and Business Impact**

For participating individuals, there is an additional \$5 fee for the plate plus a \$25 donation to Respect Choice, Inc. that is collected for them by the Tax Commission.

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**Office of the Legislative Fiscal Analyst**